Report to Tribal Leaders, February 22-23, 2006 Meeting, Tulsa, Oklahoma

The Indian Reservation Roads Program Coordinating Committee (Committee) discussed and identified the priority actions necessary to fulfill the Committee's regulatory duty to provide input and recommendations to the Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) on the proper implementation of the Indian Reservation Roads (IRR) Program. This report provides information to Tribal Leaders on the issues the Committee addressed in its February 22-23, 2006 meeting in Tulsa, Oklahoma; as follows:

- Status of IRR Program funding availability for FY 2005 (redistribution) and FY 2006 funds;
- Committee recommendations on Minimum Requirements for Attachments to IRR Inventory submissions and timeline for Inventory update and implementation;
- Tribal Input into the Process for Updating the IRR Bridge Program Regulations;
- Federal Transit Administration Tribal Transit Program Report
- Consideration of Possible Regulatory Amendments to Facilitate Tribal Flexible Financing and Bonding Initiatives;
- Call for Immediate Nomination of Deputy Assistant Secretary for Tribal Affairs in the Department of Transportation;
- Road Maintenance Issues;
- FHWA contracting opportunities;
- Tribal Input into the development of the BIA Safety Management System;
- BIA reorganization issues;
- Cost to construct data improvements.

IRR Program Funding Availability for FY 2005 (redistribution) and FY 2006

BIA Division of Transportation Chief LeRoy Gishi reported that the FHWA notified BIA in February 2006 that IRR Program carryover funding from Fiscal Year (FY) 2005 that was not distributed last year is now available for distribution to the BIA regions and to Indian tribes. Under SAFETEA-LU, this funding, in the amount of $147.6 million, must be allocated according to the IRR Program funding formula and made available for the immediate use of Indian tribes within 30 days. Mr. Gishi explained that because Congress did not reauthorize the federal highway legislation until August 2005, appropriations for the IRR
Program were made available to the BIA in piecemeal fashion in FY 2005. The FY 2005 IRR Program funding was made available as follows:

- 8/12 of annual funding made available in May 2005
- 1/12 of annual funding made available in June 2005
- 19 days of annual funding made available in July
- Additional amounts were made available due to the highway authorization legislation increase of total IRR funding from $275 to $300 million for FY 2005 in August

These FY 2005 carryover funds are now available and will be allocated to all tribes under the IRR Funding Formula using FY 2004 inventory data. These FY 2005 funds will be available in addition to the FY 2006 IRR Program funds.

As to FY 2006 funding, SAFETEA-LU authorized $330 million to the IRR Program. This funding is subject to certain obligation limits and take downs. As of February 2006, FHWA has not transferred these FY 2006 funds to the BIA. Mr. Gishi reported that he expects FHWA to make these funds available in the next couple of weeks. Looking at the FY 2005 redistributed funding and FY 2006 new funds, Mr. Gishi reports that BIA expects to have available from $400-$450 million for the IRR Program this year.

**Committee Recommendations on Minimum Requirements for Attachments to Inventory Submissions and Timeline for Implementation**

In response to significant concerns of tribes across the country about the inventory update process, the Committee met in Albuquerque November 30 and December 1, 2005, to review the BIA system for inventory updates and make recommendations to the BIA regarding the minimum requirements for inventory attachments. The Committee issued a series of recommendations to the BIA, which can be downloaded from the TTAP website at http://www.ttap.mtu.edu. These recommendations were also reported at the National BIA Regional Roads Engineers meeting in Orlando, Florida on February 2, 2006.

Mr. Gishi reported that he is preparing a letter to the Committee explaining that the Committee's minimum attachment recommendations will be developed into BIA policy. In order to implement that policy, Mr. Gishi noted that the BIA needs to modify the Road Inventory Field Data System (RIFDS) software to reflect these changes as well as to provide good examples of attachment requirements and clearer explanations of the attachment requirements for tribal officials and BIA program staff. The Committee's goal is to make the inventory update process more understandable and more efficient for all IRR Program participants.

**Tribal Input into the Process for Updating the IRR Bridge Program Regulations**

Federal Committee representative Bob Sparrow (FHWA) requested the Committee's input on FHWA's draft revision to the IRR Bridge Program (IRRBP) regulations (23 C.F.R. Part 661). SAFETEA-LU made an additional $14 million per year in funding available for the Administration:

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Michele Siedenburg
Consideration of Possible Regulatory Amendments to Facilitate Tribal Flexible Financing and Bonding Initiatives

A proposal was made to ensure that tribes choosing to use flexible financing techniques to construct roads or bridges through bonds or other loan instruments will neither be advantaged nor disadvantaged in the "cost to construct" (CTC) element of the relative needs distribution factor (RNDF). Information was distributed to Committee members on Grant Anticipation Revenue (so-called GARVEE) bonds as a flexible financing technique. The Committee agreed to review this issue and address it at the March 23-24 Committee meeting in Denver.

Call for Immediate Nomination of Deputy Assistant Secretary for Tribal Affairs in the Department of Transportation

In August 2005, SAFETEA-LU created the position of Deputy Assistant Secretary for Tribal Affairs to elevate and coordinate tribal transportation issues within the Department of Transportation. Members of the Committee expressed significant concern that this Deputy Assistant Secretary has not been nominated. The Committee will consider at its May meeting a resolution by the Affiliated Tribes of Northwest Indians (ATNI) calling for the immediate appointment of this position.

Road Maintenance Issues

The Committee also discussed the need to review the current road maintenance regulations in 25 C.F.R. Part 170 to ensure that they are consistent with the new authority in SAFETEA-LU to use up to 25% of IRR Program funds for road maintenance activities. This issue was assigned to the Committee workgroups, as indicated below.

Tribal Input into the development of the BIA Safety Management System

The Committee will also provide input into the development of the BIA Safety Management System regulations. The federal task force assigned to develop these regulations has asked the Committee to review these draft regulations and provide its input and recommendations prior to the regulations being published for public comment in the Federal Register. The task force would like to receive the

Federal Transit Administration Tribal Transit Program Report

Federal Transit Administration (FTA) representatives asked Bob Sparrow (FHWA) to provide an update on the FTA's implementation of the SAFETEA-LU provision creating a tribal transit grants program. Mr. Sparrow highlighted that the FTA published a Federal Register notice requesting comments on the program in late November 2005. Currently, FTA is evaluating those comments. FTA will participate in the upcoming Committee meeting in May 15-19, 2006 to discuss tribal transit issues with the Committee in greater detail. FTA is also planning tribal consultation/rollout meetings in Denver, Colorado on April 4, 2006 and in Kansas City, Missouri on April 7, 2006. Please check for the details of these meetings on the FTA and TTAP websites.

(Continued on page 4)
Committee’s recommendations no later than August 2006. This issue was assigned to the Committee Workgroups, as indicated below.

Other Issues for Consideration in the May 2006 Meeting or Committee Workgroups
The following issues were introduced and assigned to Workgroups or tabled for further Committee consideration:

- Proposed Resolutions introduced by Northwest Region Representative to issue Committee recommendations on positions adopted by Resolutions of the Affiliated Tribes of Northwest Indians (ATNI). To be considered during the May 2006 Committee meeting.
- Concerns regarding the accuracy of the American Indian/Alaska Native (AI/AN) population figures in the IRR Program funding formula. Assigned to Funding Workgroup (see below).
- Concerns regarding the BIA Division of Transportation within the BIA organizational structure and the consistency of policy direction across the Regions. Assigned to Policy Workgroup (see below).
- The need to update and correct deficiencies in the cost to construct data. Assigned to Funding Workgroup (see below).
- Concerns regarding the Committee’s minimum requirements for attachments to inventory submissions raised by the Alaska Region representative. To be considered during the May 2006 Committee meeting.

Committee Workgroups
The Committee has established the following four workgroups and assigned priority issues to these workgroups to carry out its responsibilities, as follows:

- Funding
  - Cost to Construct Issues
  - Population/Vehicle Miles Traveled
  - Cost of Facilities
  - Highway Trust Fund and Interior Department Road Maintenance funding issues
  - Bridge Program
  - Flexible Financing
  - IRR High Priority Projects (IRRHPP)
- Policy
  - Transportation Management Systems
  - Eligible cost issues
  - Inventory Guidance
  - BIA Organizational Structure
  - 93-638 Policy
  - IRR High Priority Policy
  - Road Maintenance regulations
  - Stewardship Plan
- Technical/Standards
  - Follow-up on minimum standards for inventory attachments
  - RIFDS issues
  - Inventory Updates/Data Appeals
  - Road Maintenance
- Delivery of Services
  - Transit
  - BIA Safety
  - Inter-modal Transportation
  - Funding Agreements

Next Meetings March 23-24, 2006, Denver, Special Meeting to discuss IRR Bridge Program and Flexible Financing May 16-18, 2006, Billings, MT Full Committee Meeting

We welcome further input and recommendations from Tribal leaders as the Committee continues its work to improve tribal transportation systems in Indian Country.

Pete Red Tomahawk—Committee Chairman
Sampson Begay—Committee Vice Chairman
C. John Healy Sr.—Committee Secretary

*For more current information please visited the IRRPCC website at http://www.ttap.mtu.edu or the NW & AK TTAP web site at http://www.ewu.edu/ttap.*
Your victory...
By Chris Zeilinger

In case you hadn’t noticed, we’ve taken to calling the transportation reauthorization bill signed into law by President Bush on August 10 your victory. We do so because the outstanding work you do everyday in communities of all sizes all across this nation was the message we carried forward here in Washington that inevitably led to this most favorable outcome. Your work. Your dedication. Your spirit... Your victory.

We are mindful that Congress addressed every one of our Association's reauthorization priorities in its final version of SAFETEA-LU. Nearly everything our members told us was needed was endorsed by Congress in one way or another. That is because Congress realized the importance of our members' good work on its own merits, and, if anything, has finally begun to realize the underfunded asset of essential community transportation across America. Our nation's leaders, both in Congress and the president's administration, have seen this value with their own eyes, not only from us, but directly from the men and women who provide and rely upon community transportation services.

SAFETEA-LU is now law and thus begins the work of interpretation and deciphering the details in this mammoth piece of legislation. To help our members and readers better understand the elements in the law, the Association will be publishing on its website (www.ctaa.org) a series of analyses of SAFETEA-LU. What follows are excerpts from the first four such web articles.

Rural Transit

SAFETEA-LU builds on many of the strengths of rural transit's favorable treatment in TEA-21 and ISTEA (the two preceding highway and transit authorizations). Some of the desirable aspects of the rural transit program are brought into other elements of federal transit investment, and an increased share of the total federal transit program will be invested in rural areas under this new legislation.

The core program for rural public transportation remains the Federal Transit Administration's (FTA) Section 5311 formula grant program. Section 5311 funds will grow from the current (FY 2005) $250.9 million steadily up-wards to approximately $535 million in FY 2009. All current features of this program are retained, plus some new ones.

The Rural Transit Assistance Program (RTAP) now will be funded with two percent of Sec. 5311 funds, growing it from the $5.25 million it’s received for many years to $7.8 million in FY 2006, and increasing steadily to $9.3 million in FY 2009. Fifteen percent of RTAP funds will be reserved for the national program, and the remainder will continue to be allocated among the states and territories.

In addition to their continued eligibility under states' Sec. 5311 programs, Indian tribes will have access to an additional pool of funds, starting at $8.0 million in FY 2006 and expanding to $15.0 million in FY 2009, to be administered directly by FTA.

The apportionment of Sec. 5311 funds becomes more complex under SAFETEA-LU. Most of the funds will continue to be allocated to states based on their population in non-urbanized areas. Twenty percent of each year's Sec. 5311 authorization will be allocated to states based on their non-urbanized land area. Some funds will be added to each state's Sec. 5311 allocation based on their 15-year population forecasts, under the new Sec. 5340(c) category. Finally, the seven states with population densities greater than 370 persons per square mile (Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island) will receive additional Sec. 5311 funds under the new Sec. 5340(d) category.

With the increased Sec. 5311 funding comes increased accountability. Under SAFETEA-LU, states will have to report some specific items to the National Transit Database. These reporting items are: total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size, type and facilities, revenue vehicle miles, and ridership.

For a long time, states with high proportions of federal public lands have received a higher federal share for their highway projects. This same feature now is extended to Sec. 5311 capital assistance in these states, which will have the same increased federal share. Sec.
5311 operating assistance in these states will be matched at an increased, 62.5 percent, federal share. SAFETEA-LU continues the longstanding provisions allowing other federal programs' funds to be used to match Sec. 5311 assistance. This matching now can be made through direct grants, as well as through contracts for service. In addition, SAFETEA-LU allows Federal Lands Highway funds (including Indian Reservation Roads, National Park Service roads and highways, Wildlife Refuge roads and highways) to be used as matching funds for Sec. 5311 projects.

SAFETEA-LU assures a substantial increase in rural areas' federal transit investments. Based on our estimated authorizations for Sec. 5311, including the rural funds from Sec. 5340(c), the rural guarantees under Sec. 5309 bus grants, Sec. 5316 Job Access grants, Sec. 5317 New Freedom grants, assuming that close to 40 percent of Sec. 5310 funds continue to be invested in rural areas, and assuming that at least 90 percent of the Transit In Parks program funds are invested in rural areas, the total rural transit investment under SAFETEA-LU is estimated as follows:

- FY 2005: approx. $350.3 million
- FY 2006: approx. $599.2 million
- FY 2007: approx. $624.2 million
- FY 2008: approx. $676.7 million
- FY 2009: approx. $718.1 million

Small-Urban Transit

SAFETEA-LU, the new transportation bill that Pres. Bush signed on August 10, preserves and expands the network of programs that support public and community transportation in urban areas with populations less than 200,000.

In this legislation, it is clear that Congress recognized the importance and vitality of public transportation in our nation's smaller cities. Formula-based transit funding for these urban areas increases steadily under SAFETEA-LU, both within the Section 5307 program as well as in the newly formula-based Job Access and New Freedom programs, both of which will have 20 percent of their annual appropriations allocated among small-urban areas.

Furthermore, Congress recognized that transit programs in smaller cities need continued flexibility in order to succeed. The legislation continues all the flexible features of Section 5307 for small-urban areas, and adds new opportunities to further enhance these cities' transit programs.

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SAFETEA-LU guarantees the following levels of Sec. 5317 New Freedom Transit funding:

- FY 2006, $78.0 million
- FY 2007, $81.0 million
- FY 2008, $87.5 million
- FY 2009, $92.5 million

States and large-urban transit systems receiving these Sec. 5317 allocations are not to engage in New Freedom transit activities themselves. Instead, they are to carry out area wide competitive solicitations for local New Freedom projects. The eligible sub-recipients are units of state or local government, nonprofit organizations, and other operators of public transportation services. Starting in FY 2007, these projects, if they are to receive Sec. 5317 funds, are to be selected through locally developed, coordinated public transit-human services transportation plans. This is the same type of process that SAFETEA-LU now requires of states and urbanized areas with regard to Sec. 5316 Job Access and Reverse Commute grants, and for states' Sec. 5310 elderly and disabilities transit grants.

Sec. 5317 funds are to be used to provide public transportation services and alternatives above and beyond the baseline requirements of the Americans with Disabilities Act (ADA), especially to help persons with disabilities access jobs and employment-related services. These funds may be used for capital expenses (at an 80 percent federal share) or operating expenses (at a 50 percent federal share); the "non-federal" share may be derived from cash, service agreements with state, local or private social services organizations, or from other federal funding sources, including Temporary Assistance for Needy Families (TANF), that allow their funds to be expended on transportation activities.

Thus far, there are no further pieces of guidance from the Federal Transit Administration (FTA) on the details of the New Freedom transit program. Some information is likely to be issued in conjunction with the FY 2006 annual apportionment of FTA formula grants, whenever that occurs, but most of the FTA guidance on this program is likely to be timed to help states and urban areas prepare for the FY 2007 program year.

The Sec. 5317 transit program allocates money based on states' and urbanized areas' populations of persons with disabilities. Sixty percent of each year's Sec. 5317 appropriation is distributed to the urban transit systems in areas with populations greater than 200,000. Twenty percent is distributed to the states for use in their urban areas with populations between 50,000 and 200,000, and the remaining twenty percent is distributed to the states for use in their rural areas.
The Alaska Tribal Technical Assistance Program (TTAP) is administered by the Urban Planning Program at Eastern Washington University under contract with the Federal Highway Administration. Funds are provided by the Federal Highway Administration LTAP, the Bureau of Indian Affairs Indian Reservation Roads Program, locally generated resources and individual contributions.

We’re on the Web!!!
www.ewu.edu/ttap

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